



30

**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Lynn Vous, Assistant County Attorney *[Signature]*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering *[Signature]*

DATE: July 19, 2005

SUBJECT: Purchase Agreement Authorization
Owner: Florida Conference Association of Seventh-Day Adventists
Parcel Nos. 736/737
Bunnell Road improvement project

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for Parcel Nos. 736/737. These parcels are required for the Bunnell Road improvement project. The purchase price is \$7,500.00, inclusive of attorneys' fees and costs incurred by the property owners.

I THE PROPERTY

A. Location Data

The property is located on the south side of Bunnell Road, approximately 140 feet east of Quail Avenue, within unincorporated Seminole County, Florida.

1. Location Map (Exhibit A);
2. Sketch (Exhibit B); and
3. Purchase Agreement (Exhibit C)

B. Address

1238 Bunnell Road
Altamonte Springs, FL

C. Description

The parent tract contains 418,092 square feet of gross land area. The property is improved with four buildings consisting of a church sanctuary, daycare facility, classroom building and gymnasium.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-72 on April 13, 2004, First Amended Resolution No. 2005-R-5 on January 11, 2005 and Second Amended Resolution No. 2005-R-70 on April 12, 2005, authorizing the acquisition of the referenced property, and finding that construction of the Bunnell Road improvement project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The temporary construction easement consists of two separate parcels, each located at the two driveways located on the subject site. Parcel No. 736 is located at the western driveway entrance of the subject property. Parcel No. 737 is located at the eastern egress driveway. The temporary taking contains 1,116 square feet of land area, and is for a period of five years.

IV APPRAISED VALUE

The County's appraised value amount is \$1,200.00 for both parcels. The County's appraisal was prepared by Clayton, Roper & Marshall, P.A., and was approved by the County's MAI designated staff appraiser.

V BINDING OFFER/NEGOTIATIONS

On February 22, 2005, the BCC authorized a binding written offer in the amount of \$1,200.00. Thereafter, County staff negotiated this proposed settlement agreement with the property owners and their attorney in the amount of \$7,500.00.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

This settlement proposal makes sense based on cost avoidance. The difference between the County's written offer amount and the proposed settlement amount (\$6,300.00) would be spent quickly by experts employed by both sides, if the case proceeds to litigation. The cooperative purchase of the property through this proposed settlement is in the best interest of the citizens of Seminole County, and is the most cost effective means of effectuating the drainage easement improvements.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$7,500.00 inclusive of attorney's fees and costs incurred by the property owner.

LV/krc

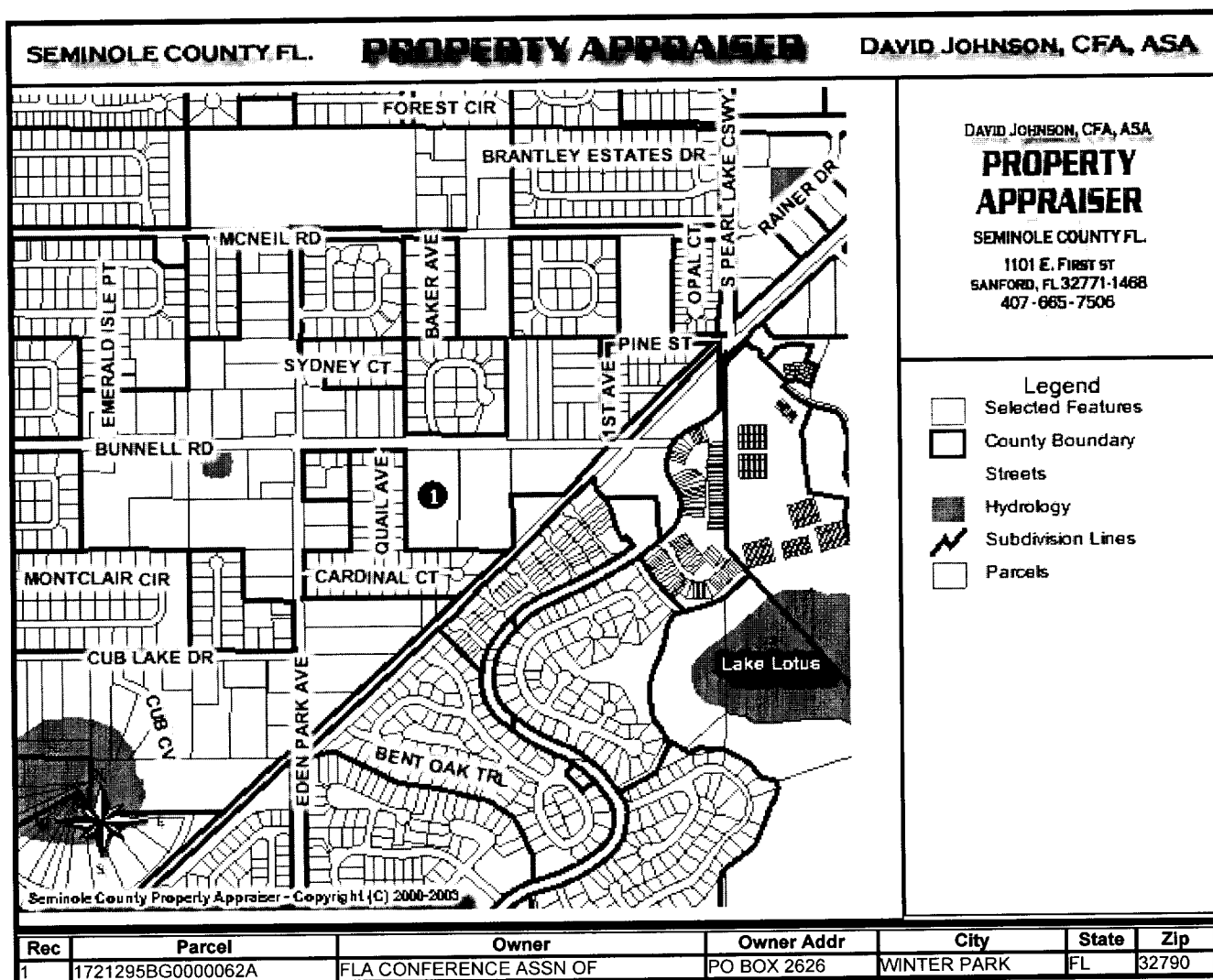
Attachments:

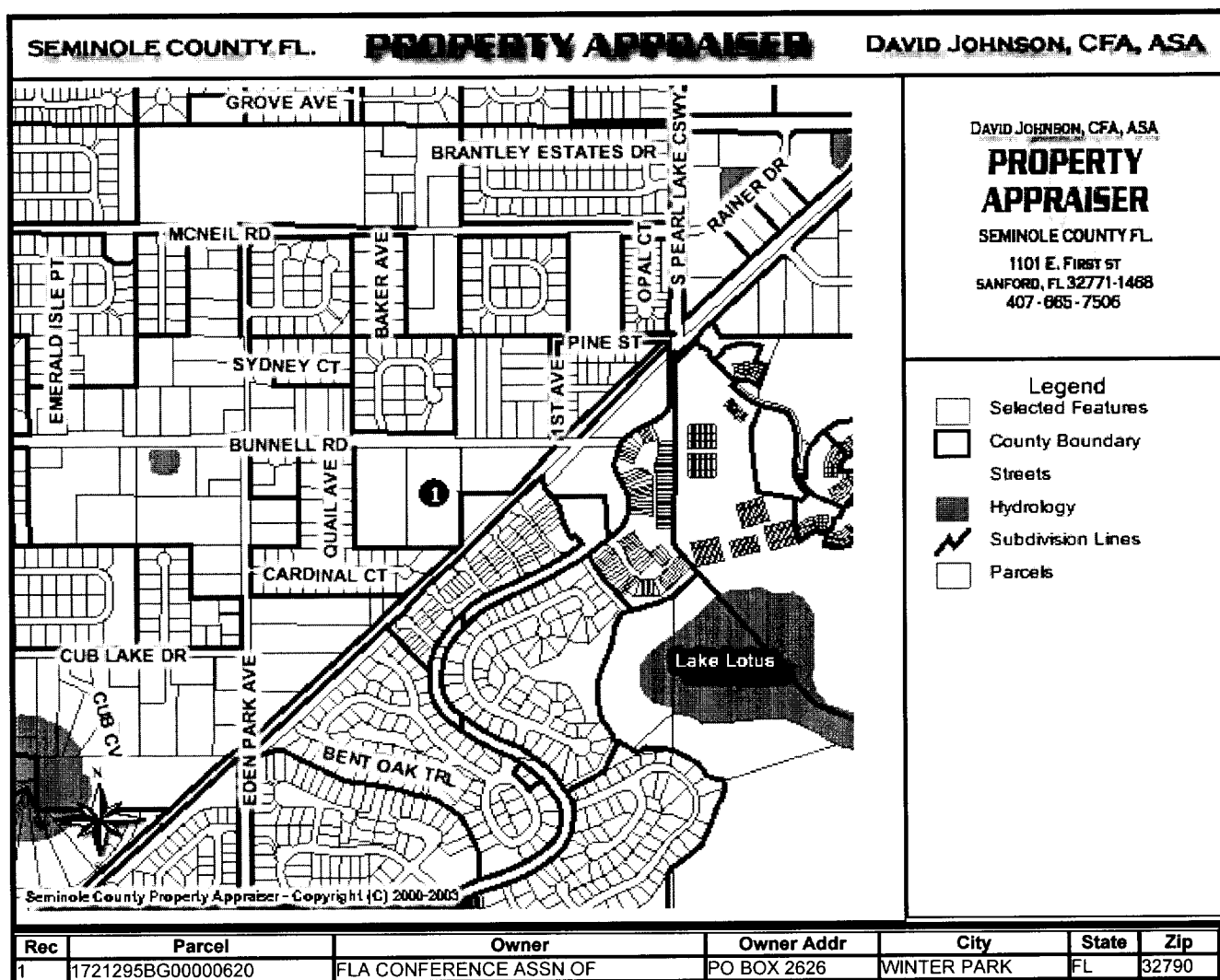
Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

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**EXHIBIT A**

**EXHIBIT A**

BUNNELL ROAD

MAIL BOXES

39.83' 22' ±

39.83'

5'-6" IRON FENCE

5'-6" IRON FENCE

5'-6" IRON FENCE

TEMPORARY CONSTRUCTION EASEMENT

736

SCALE 1" = 30'

BUNNELL ROAD

737

68.92'

39.29'

13.23'

68.92'

5'-6" IRON FENCE

WATER

FIRE HYDRANT

5'-6" IRON FENCE

TEMPORARY CONSTRUCTION EASEMENT

SCALE 1" = 30'

BUNNELL ROAD

171.05'

340.62'

59' ±

56' ±

634.13'

604.38'

628.85' ±

42.50' ±

04-263 BUNNELL ROAD
PARCEL 736/737 - AREA TAKEN
SEMIPOLE COUNTY
FLORIDA

BEFORE TAKING: 418,092 SF ±
AREA TCE 736: 203 SF ±
AREA TCE 737: 913 SF ±

M: \2004\04-263 Bunnell\736_737\parcel736_737.DWG

04-263 BUNNELL ROAD
PARCEL 736/737 - AREA TAKEN
SEMIPOLE COUNTY
FLORIDA

2

CRM File No. 04-263.736/737

ENCLOSURE 2 :

**PURCHASE AGREEMENT
TEMPORARY CONSTRUCTION EASEMENTS**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

July

THIS AGREEMENT is made and entered into this ____ day of _____, 2005, by and between FLORIDA CONFERENCE ASSOCIATION OF SEVENTH-DAY ADVENTISTS, whose address is 655 N. Wymore Road, Winter Park, FL 32789-1715, hereinafter referred to as "OWNER," and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, the COUNTY requires the hereinafter described property for construction and maintenance of an authorized road project in Seminole County;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained OWNER hereby agrees to execute Temporary Construction Easements and COUNTY hereby agrees to purchase the Temporary Construction Easements described below upon the following terms and conditions:

I. LEGAL DESCRIPTION

**Bunnell Road
Temporary Construction Easement(s)
Parcel Nos. 736 and 737**

See attached Exhibit "A"

**Parcel I.D. Numbers: 17-21-29-5BG-0000-0620 and
17-21-29-5BG-0000-062A**

II. PURCHASE PRICE

(a) OWNER agrees to convey the above-described property of the above referenced project by Temporary Construction Easements, unto COUNTY for the sum of ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00). The above amount includes all compensation due as a result of this acquisition to the OWNER for any reason and for any account whatsoever. OWNER agrees to execute a Temporary Construction Easement for a period of five (5) years from date of commencement of construction on Parcel Nos. 736 and 737.

EXHIBIT C

III. CONDITIONS

(a) COUNTY shall pay to the OWNER the sum as described in Item II. above, upon the proper execution and delivery of all the instruments required to complete the above purchase and sale to the designated closing agent. The OWNER agrees to close within seven (7) days of notice by the COUNTY or the COUNTY's closing agent that a closing is ready to occur.

(b) The OWNER at the expense of the OWNER prior to closing shall remove any and all encroachments existing upon the required property other than those improvements included in the purchase price.

(c) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a temporary construction easement, also include the covenant of further assurances.

(d) OWNER warrants that there are no facts known to OWNER materially affecting the value of the properties which are not readily observable by COUNTY or which have not been disclosed to COUNTY.

(e) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a warranty deed, also include the covenant of further assurances.

(f) The OWNER shall fully comply with *Section 286.23, Florida Statutes*, to the extent that said statute is applicable.

(g) In the event that COUNTY subsequently abandons this project after execution of this Agreement, but before closing, this Agreement shall be null and void.

(h) In the event that difficulties arise as to clearing title sufficient to consummate a closing of this Purchase Agreement or difficulties occur in the issuance of a title insurance commitment which is acceptable to the COUNTY; this Agreement shall survive the filing of any eminent domain action by the COUNTY and shall serve as a joint stipulation regarding all valuation issues and fees and costs matters in any condemnation proceeding initiated by the COUNTY relating to the real property herein described. The OWNER agrees that, in accordance with any request made by the COUNTY, the OWNER shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNER agrees not to oppose the COUNTY's condemnation proceedings in any way. The OWNER, may however, assert OWNER's rights against other claimants in apportionment proceedings.

(i) As part of the consideration for this Purchase Agreement, OWNER hereby grants to COUNTY, its employees, agents, consulting engineers, contractors and other representatives the right to enter upon and to have exclusive possession of the property

described in Exhibit A to this Agreement. The right of entry shall commence ninety (90) days after the execution of this Agreement by COUNTY, and shall continue until closing occurs, or if closing cannot occur, until the condemnation proceedings to acquire the property have been completed. Aside from this Agreement, no further notification of COUNTY's intent to enter the property is required. This right of entry is for the purpose of construction of the Bunnell Road Improvement Project and so that the COUNTY's construction schedule can be maintained notwithstanding issues which may delay closing in a timely manner. OWNER will not receive from COUNTY any additional compensation beyond that set forth in this Purchase Agreement during the period of time the COUNTY occupies the above described property for the purpose set forth above for the right to enter and possess the property before conveyance of title.

(j) The OWNER shall indemnify and save the COUNTY harmless from and against all liability, claims for damages, and suits for any injury to any person or persons, or damages to any property of any kind whatsoever arising out of or in any way connected with this Agreement or in any act or omission in any manner related to said Agreement.

(k) The COUNTY shall be solely responsible for all of COUNTY activities conducted on the property. OWNER shall not be considered an agent or employee of COUNTY for any reason whatsoever on account of the Agreement.

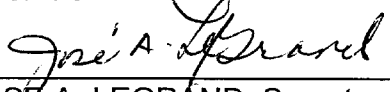
(l) The OWNER states that the OWNER has not engaged in any action that would create a conflict of interest in the performance of OWNER's obligations under this Agreement with the COUNTY which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

(m) TEMPORARY CONSTRUCTION EASEMENTS in the form and content to be used by the parties at closing on this purchase is attached to this agreement as Exhibit "B".

SUBJECT TO TERMS OF ADDENDUM ATTACHED

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names on the date first above written.

ATTEST


JOSE A. LEGRAND, Secretary

(CORPORATE SEAL)

PROPERTY OWNER:

By: 
MICHAEL GAULEY - President/Director
Glenn E. Carter, Vice President
July 2005

Date: _____

ADDRESS: 655 N. Wymore Road
Altamonte Springs, Florida 32714

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

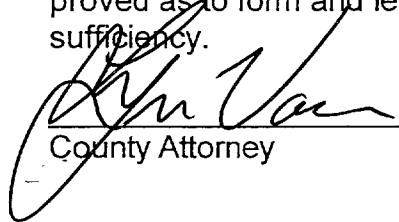
MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board of
County Commissioners at its _____,
2005, regular meeting.



County Attorney

TTC/03/04/2005

ADDENDUM TO PURCHASE CONTRACT FOR TEMPORARY CONSTRUCTION EASEMENT

This is an **ADDENDUM** ("Addendum") **TO PURCHASE CONTRACT FOR PURCHASE OF TEMPORARY CONSTRUCTION EASEMENT** dated July __, 2005 ("Agreement"), between Florida Conference Association of Seventh-day Adventists, as SELLER, and **THE SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS, SEMINOLE COUNTY, FLORIDA**, as BUYER, it is further AGREED as FOLLOWS:

- A. That the terms and provisions contained in the Contract for Sale of Temporary Construction Easement to which this Addendum is attached, shall be fully applicable to the provisions contained in this Addendum. If the terms or the provisions in the Contract for Sale of Temporary Construction Easement shall conflict with the provisions of this Addendum, the provisions of this Addendum shall govern. All provisions of this Contract for Sale of Temporary Construction Easement shall survive closing of the transaction contemplated hereunder and shall run with the land.
- B. That words or phrases specifically defined in the Contract for Sale of Temporary Construction Easement shall have the same meanings when used in the Addendum unless otherwise specifically defined herein; all of the terms, conditions, covenants and obligations provided in the Contract for Sale of Temporary Construction Easement shall be fully applicable and binding upon the parties hereto; and reference hereinafter to the Contract for Sale of Temporary Construction Easement shall include this Addendum.
- C. BUYER acknowledges that Parcel 736/737 may have potential impacts upon the remaining real property owned by SELLER. Therefore, in further consideration of the its purchase of a of Temporary Construction Easement known as Parcel 736/737, the BUYER issues the following warranty to SELLER:
 - 1. That the size, dimensions and location of Parcel 736/737 are set forth on the sketches prepared by Seminole County Engineering Department Right of Way Mapping on Project PF 567-00, which are attached hereto and incorporated herein as Exhibit "1".

2. No storm water will flow from the BUYER'S right-of-way/real property onto the SELLER'S remaining real property ("Remainder"). Similarly, any storm water that currently flows off the SELLER'S and onto the existing right-of-way will continue to be allowed to flow in this direction without any restriction.
 3. All access to the SELLER'S remaining property will remain open and unimpeded at all times during the construction process and the size, shape, and design of all access will remain the same as existed as of the date of this Agreement.
 4. No improvements will be damaged, destroyed or altered as a result of the Buyer's acquisition of Parcel 736/737.
 5. Any and all improvements on the BUYER'S property will remain either legally non-conforming or conforming after the BUYER'S acquisition of Parcel 736/737.
- D. Warranties: SELLER'S makes no warranty as to any environmental contamination or other environmental issues related to Parcel 736/737 and BUYER acknowledges that it accepts Parcel in its current, "as is" condition.
- E. BUYER agrees to indemnify SELLER for any damages related to any breach of the warranty(s) set forth in this addendum and that BUYER shall retain the ability to seek additional compensation as a result of its reliance upon the warranty(s) contained herein.
- F. In the event of any litigation related to the enforcement of this Addendum or to the Contract for Sale and Purchase, the non-prevailing party shall pay the prevailing party's reasonable attorneys' fees and costs.
- G. SELLER hereby declares that all of the terms and conditions herein offered are made in the spirit of cooperation and with the intent of reaching a settlement, and shall not be construed in any way as a maximum/minimum determination of any values which might otherwise be determined to be full compensation under the Constitution of the State of Florida, the Constitution of the United

States of America, or any other laws and regulations heretofore promulgated in respect thereto and that all terms set forth in this Addendum shall survive closing and run with the land.

H. Paragraph II of the Purchase Agreement is amended to provide that the Purchase Price and Amount to be paid to Owner as compensation for the Temporary Construction Easement shall be Seven Thousand Dollars (\$7,000.00) rather than the amount of One Thousand Two Hundred Dollars (\$1,200.00) as set forth in Paragraph II.

In addition to the Purchase Price, at closing, BUYER will pay attorneys' fees and expert costs to SELLER'S counsel, Frank McMillan, Esq., 655 North Wymore Road, Winter Park, FL 32789, in the amount of Five Hundred Dollars (\$500.00).

Florida Conference Association of
Seventh-day Adventists

Dated: July____, 2005

By Glenn E. Carter
Glenn E. Carter, Vice President

Attest Jose A. LeGrand
Jose A. LeGrand, Secretary

SELLER

COUNTY,

**BUYER - BOARD OF COUNTY
COMMISSIONERS SEMINOLE
FLORIDA**

Dated: _____, 2005

By: _____

Name: _____

Title: _____

TEMPORARY CONSTRUCTION EASEMENT

PROJECT: Bunnell Road

R/W PARCEL NO.: 736

ID# 17-21-29-SBG-0000-062A

A part of the property described in Official Records Book 894, Page 242, as recorded in the Public Records of Seminole County, Florida, being that portion of Section 20, Township 21 South, Range 29 East.

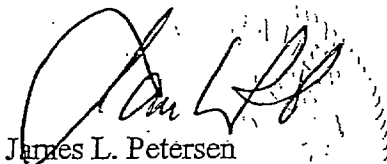
described as follows:

COMMENCE at the Northwest corner of Lot 62, McNeil's Orange Villa according the plat thereof as recorded in Plat Book 2, Pages 99-101, Public Records of Seminole County, Florida, said point also being on the South Right-of-Way line of Bunnell Road; thence South $89^{\circ}34'29''$ East, a distance of 171.05 feet along said line to the POINT OF BEGINNING; thence continue South $89^{\circ}34'29''$ East, a distance of 39.83 feet; thence South $00^{\circ}22'35''$ West, a distance of 5.08 feet; thence North $89^{\circ}37'25''$ West, a distance of 39.83 feet; thence North $00^{\circ}22'35''$ East, a distance of 5.11 feet to said Right-of-Way line and the POINT OF BEGINNING.

Containing 203 square feet, more or less.

The sketch for this description is shown on sheets 6 of 17 on the right-of-way maps for Bunnell Road.

I hereby certify that this description is true, accurate and complete to the best of my knowledge and is in compliance with the Minimum Technical Standards as set forth in Chapter 61G17-6 Florida Administrative Code.



James L. Petersen

Florida Registered Land Surveyor #4791

Date 09/05/2003

NOT VALID WITHOUT SURVEYOR'S EMBOSSED SEAL

Southeastern Surveying & Mapping Corp.
6500 All American Boulevard
Orlando, Florida 32810-4350
407-292-8580

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

PROJECT: Bunnell Road

R/W PARCEL NO.: 737

ID# 17-21-29-SBG-0000-0620

A part of the property described in Official Records Book 1873, Page 1920, as recorded in the Public Records of Seminole County, Florida, being that portion of Section 20, Township 21 South, Range 29 East.

described as follows:

COMMENCE at the Northeast corner of Lot 62, McNeil's Orange Villa according to the plat thereof as recorded in Plat Book 2, Pages 99-101, Public Records of Seminole County, Florida, said point also being on the South Right-of-Way line of Bunnell Road; thence North $89^{\circ}34'29''$ West, a distance of 39.29 feet along said South Right-of-Way line to the POINT OF BEGINNING; thence South $00^{\circ}18'20''$ East, a distance of 13.23 feet; thence North $89^{\circ}37'25''$ West, a distance of 68.92 feet; thence North $00^{\circ}18'20''$ West, a distance of 13.29 feet to the South Right-of-Way line of Bunnell Road; thence South $89^{\circ}34'29''$ East, a distance of 68.92 feet along said South line to the POINT OF BEGINNING.

Containing 913 square feet, more or less.

The sketch for this description is shown on sheets 7 of 17 on the right-of-way maps for Bunnell Road.

I hereby certify that this description is true, accurate and complete to the best of my knowledge and is in compliance with the Minimum Technical Standards as set forth in Chapter 61G17-6 Florida Administrative Code.



James L. Petersen

Date 09/05/2003

Florida Registered Land Surveyor #4791

NOT VALID WITHOUT SURVEYOR'S EMBOSSED SEAL

Southeastern Surveying & Mapping Corp.
6500 All American Boulevard
Orlando, Florida 32810-4350
407-292-8580

EXHIBIT A

Parcel 736/737
Bunnell Road Project
Seminole County, Florida

This Document Prepared By:

EXHIBIT " B"

TEMPORARY CONSTRUCTION EASEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, between _____, whose address is _____, hereinafter referred to as GRANTOR, and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as GRANTEE.

WITNESSETH: That the GRANTOR, for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00), and other valuable considerations paid, receipt of which is hereby acknowledged, does hereby grant unto the GRANTEE permission, to be exercised during the period of construction, to enter upon the following described lands:

Property Appraiser's Parcel #

Further Described in the Attached Exhibit " ".

for the purpose of tying in and harmonizing said property thereon with the construction to be undertaken by the County on the Bunnell Road/Eden Park Avenue Road Projects, and for the purposes of utilizing said property for all other purposes that the GRANTEE deems or may subsequently deem necessary or desirable during the course of the road construction project.

THIS EASEMENT is granted upon the condition that the sloping and/or grading upon the above land shall not extend beyond the limits outlined above, and that all grading or sloping shall conform to all existing structural improvements within the limits designated. Additionally, as to tying in, harmonizing, construction and all other uses to which the property is put by the COUNTY, as the completion of work provided herein, the easement area will be restored by the GRANTEE, to the conditions prior to this easement, except for any improvements that may be constructed by the COUNTY in connection with the use of this easement.

THIS EASEMENT shall expire upon completion of this transportation project, but not later than five (5) years from the execution by the GRANTOR; provided, however, that the GRANTEE covenants that existing structures and drainage flow ways and patterns will not be altered or impeded by the GRANTEE in any way.

GRANTOR covenants that GRANTOR is lawfully seized and possessed of the real estate above described and has the right to convey this easement. GRANTOR agrees to further assure the COUNTY if necessary.

IN WITNESS WHEREOF, the GRANTOR has hereunto set GRANTOR'S hand and seal the day and year first above written.

WITNESSES:

GRANTOR:

Signature

Print Name

Signature

Print Name

Name:

Title:

Address:

STATE OF)
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ the _____, of _____, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC

Print Name: _____

Notary Public in and for the County and State
Aforementioned

My Commission Expires: _____

File: